

Bureau of Professional Standards
Internal Affairs Division

18 Aug 08
CL# 1014713

TO: Commanding Officer
General Investigation Section

FROM: P.A. Linda Salustro
General Investigation Section

SUBJECT: Approval of Complaint Log Number 1014713

The attached Complaint Investigation has been completed and submitted
for your approval.



Linda Salustro
General Investigation Section

Approved:



Supervising Sergeant



Commanding Officer
General Investigation Section

SUMMARY REPORT DIGEST
CHICAGO POLICE DEPARTMENT

COMPLAINT LOG NO.
1014713

TYPE
CR

DATE OF REPORT (Day-Mo.-Yr.)
18 Aug 08

INSTRUCTIONS: To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed FIVE (5) DAYS SUSPENSION. SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED. SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

TO: ☐ CHIEF ADMINISTRATOR,
INDEPENDENT POLICE REVIEW AUTHORITY ☒ CHIEF,
INTERNAL AFFAIRS DIVISION

FROM - INVESTIGATOR'S NAME
Linda SALUSTRO RANK P.A. STAR NO. 3944 EMPLOYEE NO. [REDACTED] UNIT ASSIGN. 121 UNIT DETAILED

REFERENCE NOS. (LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT TO THIS INVESTIGATION)
RD# [REDACTED]

ADDRESS OF INCIDENT
61 [REDACTED] S. Langley Ave. Chicago II DATE OF INCIDENT - TIME
17 Feb 08 20:02 hrs BEAT OF INCIDENT
313

NAME		RANK	STAR NO.	EMPLOYEE NO.	UNIT ASSIGN.	UNIT DETAILED
1 Kevin EBERLE		Det.	20817	[REDACTED]	620	
2. Brian FORBERG		Det.	21249	[REDACTED]	620	
3. Dennis KEANE		Cmd	0739	[REDACTED]	012	

SEX/RACE	D.O.B.	DATE OF APPOINTMENT	DUTY STATUS (TIME OF INCIDENT)	SWORN	CIVILIAN
1. M/W	40 yrs	22 Nov 93	<input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY	<input checked="" type="checkbox"/> SWORN	<input type="checkbox"/> CIVILIAN
2. M/W	47 yrs	10 Jul 95	<input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY	<input checked="" type="checkbox"/> SWORN	<input type="checkbox"/> CIVILIAN
3. M/W	56 yrs	03 Jan 77	<input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY	<input checked="" type="checkbox"/> SWORN	<input type="checkbox"/> CIVILIAN

IF APPLIES, DATE ARRESTED/INDICTED	CHARGES	COURT BRANCH	DISPOSITION & DATE
1.			
2.			
3.			

NAME	ADDRESS**	CITY	STATE	TELEPHONE	SEX/RACE	D.O.B./AGE
[REDACTED]	[REDACTED]	Chicago	60637	[REDACTED]	F/B	33 yrs

NAME	ADDRESS**	CITY	STATE	TELEPHONE	SEX/RACE	D.O.B./AGE
[REDACTED]	[REDACTED]	Chicago	60637	[REDACTED]	F/B	58 yrs

NAME	ADDRESS**	CITY	STATE	TELEPHONE	SEX/RACE	D.O.B./AGE
[REDACTED]	[REDACTED]	Chicago	60637	[REDACTED]	F/B	22 yrs

☒ SEE ATTACHED SHEET FOR ADDITIONAL ACCUSED, COMPLAINANTS, VICTIMS, WITNESSES.

**IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

NOTE: Complaint "Type" is classified CR - Sworn Affidavit is on file.

The complainant, [REDACTED] alleges that on the above date, time and location the named Officers failed to conduct a thorough investigation into the shooting death of [REDACTED]

Briefly summarize the investigation describing your efforts to prove or disprove the allegation(s). Indicate whether witnesses or evidence support or do not support the allegation(s).
In sustained cases ONLY, copies of the accused member's Summary of Previous Disciplinary Actions and Record of Previous Complimentary History will be included as attachments.

SEE FOLLOWING PAGES

SUMMARY

ATTACH- MENTS	INVESTIGATIVE REPORTS- SUPPORTING ALLEGATION LIST ATTACHMENT NUMBERS:	INVESTIGATIVE REPORTS- SUPPORTING ACCUSED MEMBER(S) LIST ATTACHMENT NUMBERS:	PHYSICAL EVIDENCE LIST ATTACHMENT NUMBERS:	TOTAL NUMBER OF ATTACHMENTS SUBMITTED WITH THIS FILE:
	4,5,6,	9,17,20,22,24,		38

Summarize the findings and recommendations. Rule violations will be cited by number only. One overall recommendation for Disciplinary Action will be made by the Investigator. The recommendation will be for ALL sustained findings; recommendations will NOT be made for each sustained allegation.
Example: 1. Violation noted, no disciplinary action warranted. 2. That the accused member be reprimanded. 3. That the accused member be suspended for --- days (not to exceed 5 days).

SEE FOLLOWING PAGES

FINDINGS - RECOMMENDATIONS

DATE INITIATED (Date complaint was received for investigation)	DATE COMPLETED (Date of this report)	ELAPSED TIME (Total time expressed in days)
06 Mar 08	18 Aug 08	165

Investigator will initiate the Command Channel Review form by completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE

Signature printed by (P.O.), include full name
and date. Do not stamp in, and
Date: 18 Aug 08 10:10:10 AM

IF NECESSARY, USE AN 8 1/2 x 11" SHEET OF WHITE PAPER TO CONTINUE ANY ITEM.

Internal Affairs Division
General Investigation Section

18 Aug 08
CL 1014713

ADDITIONAL WITNESSES:

- 3: [REDACTED] F/B, 13 yrs of age
Chicago
4. [REDACTED] F/B, 12 yrs of age
Chicago

EVIDENCE:

Attachments

No.	Type	No. of Pages	Narrative
1	FACE SHEET		
2	CONFLICT CERTIFICATION		
3	SWORN AFFIDAVIT FROM COMPLAINANT	1	Signed by complainant
4	COMPLAINANT STATEMENT	8	Statement of [REDACTED] of deceased
5	INTERVIEW - WITNESS	5	Statement of witness [REDACTED]
6	INTERVIEW - WITNESS	4	Statement of Witness [REDACTED]
7	REPORT (OTHER)	2	Statement of [REDACTED] of [REDACTED]
8	INTERVIEW - WITNESS	3	[REDACTED]
9	DETECTIVE SUPPLEMENTARY REPORT	17	Detectives Scene Report
10	CRIME SCENE PROCESSING REPORT	2	
11	REPORT (OTHER)	3	Morgue Report
12	REPORT (OTHER)	5	Lab Report
13	REPORT (OTHER)	2	Inventory of Officer's and deceased weapons
14	REPORT (OTHER)	2	Inventory of expended shells
15	REPORT (OTHER)	5	Canvas Report
16	DETECTIVE SUPPLEMENTARY REPORT	5	Field Progress Report- Reclassification and result of GSR
17	DETECTIVE SUPPLEMENTARY REPORT	5	Lab Report Gun Shot Residue [REDACTED]
18	DETECTIVE SUPPLEMENTARY REPORT	5	Lab Report Gun Shot Residue [REDACTED]
19	ACCUSED NOTIFICATION OF ALLEGATIONS FOR FORBERG, BRIAN		
20	STATEMENT OF POLICE OFFICER	6	Statement of Det. Forberg
21	ACCUSED NOTIFICATION OF ALLEGATIONS FOR EBERLE, KEVIN		
22	STATEMENT OF POLICE OFFICER	5	Statement of Det. Eberle
23	ACCUSED NOTIFICATION OF ALLEGATIONS FOR KEANE, DENNIS		
24	STATEMENT OF POLICE OFFICER	4	Commander Keane's
25	AUDIO RECORDING	1	Neighbor call to 911
26	AUDIO RECORDING	1	Audio of call made to 911
27	AUDIO RECORDING	1	neighbor call
28	AUDIO RECORDING	1	Neighbor call to 911
29	AUDIO RECORDING	1	Neighbor call to 911
30	AUDIO RECORDING	1	[REDACTED] call to 911
31	AUDIO RECORDING	1	Call made by witness neighbor
32	AUDIO RECORDING	1	Neighbor call to 911
33	AUDIO RECORDING	1	Neighbor call of shooting

34 AUDIO RECORDING	1	Call to 911 made by family member as shooting occurs
35 AUDIO RECORDING	1	Call made from [REDACTED] to 911 immediately after the shooting.
36 AUDIO RECORDING	1	Call by [REDACTED] as shooting occurs
37 REPORT (OTHER)	21	Service Calls-Event:Queries for calls to 911.
38 REPORT (OTHER)	2	General Progress Report

SUMMARY:

The "Face Sheet" attached to this Complaint identifies [REDACTED] as complainants. The investigation has found that these two individuals have no first hand knowledge of the incident therefore they were not interviewed.

[REDACTED] is the actual Complainant. She was interviewed and related that on 17 Feb 08 [REDACTED] shot and killed [REDACTED]. Her complaint is that the assigned Detectives failed to properly investigate the incident.

[REDACTED] related that after the shooting she was transported to Area 2. She complained that the brief interview that the Detectives conducted was not enough to get an accurate account of the shooting (Att 4).

[REDACTED] and [REDACTED] had two daughters while they were married. Their [REDACTED] was a witness to the shooting. [REDACTED] stated that she was questioned by the Detectives as to what had happened, "how it started," "who spoke first," "what side of the street did [REDACTED] come in," and other questions related to the shooting (Att 5).

The couple's [REDACTED] was also a witness to the shooting. [REDACTED] stated that she spoke with the Detectives at the Police Station but "they didn't really ask me what had happened." When questioned further about the types of questions she was asked by the Detectives [REDACTED] admitted that she was asked several questions regarding the shooting (Att 6).

[REDACTED] stated that [REDACTED] was taken to the Station on 111th Street where she spent many hours with the police after the shooting. [REDACTED] stated that she did not witness the shooting and had no first hand knowledge of what occurred (Att 7).

[REDACTED] stated that she did not know the names of the other witnesses but knew that there were people outside immediately after the shooting because she saw them. [REDACTED] stated that the Detectives did not ask her anything and they did not interview the other witnesses. [REDACTED] stated that she did not witness the shooting (Att 8).

Many reports were obtained regarding the shooting death of [REDACTED]. Detectives assigned to Area Two conducted a canvas of the area and spoke with six individuals. None of the persons interviewed witnessed the shooting (Att 15).

Although the Morgue Report states that [REDACTED] was shot several times, and no one saw him fire either of the two weapons he had on his person, gun shot residue was found on his hands. This indicates that [REDACTED] had fired a weapon prior to his death (Att 11, 18).

The accused Detectives as well as their Commanding Officer, (Lieutenant now Commander Dennis Keane) were served with the allegation made against them. A formal interview was then conducted with each accused.

Detectives FORBERG and EBERLE were served with;

1. Failing to conduct a thorough investigation into the death of her [REDACTED]
2. Failing to interview family members and neighbors that had first hand knowledge of the shooting death of [REDACTED]
3. Releasing information to the News Media that [REDACTED] had been shot four times.
4. Failure to notify the State's Attorney of the shooting death of [REDACTED]
5. Releasing [REDACTED] without filing charges for the shooting death of [REDACTED]

Regarding Allegation No 1 Detective FORBERG stated that he started his investigation at the scene of the shooting and continued it at Area Two as well as at the State's Attorney's Office and other residences (Att 20, pg 2).

When asked if he had interviewed family members that had first hand knowledge of the incident FORBERG replied that he interviewed [REDACTED] and [REDACTED]. He stated that the canvas of neighbors was conducted by assisting Detectives (Att 20, pg2).

FORBERG did not recall talking to anyone other than his partner about the number of gunshot wounds [REDACTED] suffered, and did not know how the Media learned that [REDACTED] was shot four times (Att 20, pg 3).

FORBERG stated that he spoke with Assistant State's Attorney Pfeiffer regarding the shooting. FORBERG stated that he made the Attorney aware of all of the facts as he knew them on that night. He stated he informed the State of the following facts; "That we were investigating an off duty Robbins Police Officer shooting, that we had witnesses at the Area, as well as the off duty Officer that we wanted to interview regarding the investigation." "That the offender had been fatally shot by the off duty officer and two hand guns had been recovered from the offender." "And that I may have told her other things, but as well as my recollection today that is what I remember telling her" (Att 20 pg 4).

FORBERG stated that a decision not to seek charges against off duty Officer [REDACTED] was made by him, Det. Eberle and Lt. Keane. FORBERG stated that the investigation at that time revealed that charges were not warranted against [REDACTED] (Att 20 pg 5).

FORBERG stated that he presented the investigation to Dave Navarro of the State's Professional Standards Unit for further review after Navarro inquired about the investigation (Att 20 pg 5).

Detective EBERLE was served with the same allegations and asked relative questions. EBERLE stated that he and his partner conducted their investigation of the shooting at the scene and at Area Two (Att 22 pg 2).

EBERLE stated that he interviewed the family members that were present at the scene, [REDACTED]

EBERLE denied telling anyone the number of gun shot wounds [REDACTED] received and stated that he was not informed of the number until the next day when he spoke with the Medical Examiner. EBERLE did not know how the News Media obtained the information that [REDACTED] was shot four times (Att 22 pg 3).

EBERLE stated that his partner FORBERG spoke with the State's Attorney and that after reviewing the facts of the investigation a decision was made not to seek charges against the off duty Robbins Officer. EBERLE stated that the decision was made by him, FORBERG and Lieutenant KEANE (Att 22 pg 4).

Commander (Lieutenant) KEANE was served with the allegation that Area 2 Detectives failed to conduct a thorough investigation. During his statement Commander KEANE stated that he responded to the scene of the shooting where he viewed the body of [REDACTED]

KEANE stated that he did not interview any of the persons involved in the incident. KEANE stated that he ensured that the State's Attorney was notified and that the Chief of Felony Review was consulted. Commander KEANE stated that his Detectives were twice told that the State was not coming out (Att 24 pg 2).

Commander KEANE stated that he discussed the facts of the case with his Detectives and based on the facts known at that time no charges were warranted (Att 24 pg 3).

The Detectives and Commander KEANE each stated that in their experience with the State's Attorney's Office they have found that the State always comes out on a shooting involving a Chicago Police Officer. This shooting was the first Suburban Officer involved shooting that any of the Officers had encountered, and considered the incident to be an extraordinary circumstance (Att 20 pg 6, 22 pg 4, 24 pg 3).

In conclusion this investigation has found that the Detectives assigned to investigate the shooting death of [REDACTED] performed their duties in compliance with Department Guidelines and Directives. After review of all of the information learned it is this investigator's recommendation that this investigation should be classified as unfounded.

FINDINGS:

ACCUSED: #1. Detective Kevin Eberle # 20817

ALLEGATION:

1. Unfounded in that evidence shows that extensive work went into the death investigation.
2. Unfounded, based on statements made by the family that the three family members who witnessed the shooting were interviewed at great lengths after the incident.
3. Not sustained in that the allegation made cannot be proved or disproved.
4. Unfounded based on the fact that the State's Attorney's Office was contacted by his partner Det. Forberg
5. Exonerated, in that Officer's actions were lawful and complied with Department Directives.

#2. Detective Brian Forberg # 21249

1. Unfounded in that evidence shows that extensive work went into the death investigation.
2. Unfounded, based on statements made by the family that the three family members who witnessed the shooting were interviewed at great lengths after the incident.
3. Not sustained in that the allegation made cannot be proved or disproved.
4. Unfounded based on the fact that the State's Attorney's Office was contacted but refused to come out to conduct an investigation.
5. Exonerated, in that Officer's actions were lawful and complied with Department Directives.

#3. Commander Dennis Keane # 739

1. Unfounded, based on the information found during this investigation it has been determined that supervised Area 2 Detectives as they conducted a thorough investigation into the shooting death of Marcus McKinney.

RECOMMENDATION:

None, case to be filed.